

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

CAROLYN DUNN LUKSZA & PATRICIA
FOSER, INDIVIDUALLY AND ON BEHALF
OTHERS SIMILARLY SITUATED,

Plaintiffs,

vs.

TJX COMPANIES, Inc., a Delaware corporation,
d/b/a "TJ MAXX"; DOES I Through X; and Roe
Corporations I through X, inclusive,

Defendants.

Case No. 2:11 -cv-01359-JCM-GWF

ORDER

Motion to Seal Portions of Exhibit 3
(#108)

This matter comes before the Court on Defendant TJX Companies, Inc.'s ("Defendant") Motion to Seal (#108), filed on June 12, 2013. Plaintiffs Carolyn Dunn Luksza and Patricia Foser ("Plaintiffs") previously filed a Motion (#103) for leave to file their Opposition (#104) to Defendant TJX's ("TJX") Motion for Summary Judgement (#93) along with its accompanying exhibits under seal. The Court denied Plaintiffs' Motion (#103), finding Plaintiffs' general statements did not adequately set forth compelling reasons to seal the pleadings. *See June 7, 2013 Order, Doc. #106*. Defendant now moves to seal only Exhibit 3 to the Affidavit of Larson A. Welsh in support of Plaintiffs' Opposition (#104).

The Supreme Court has recognized a "general right to inspect and copy public records and documents, including judicial records and documents." *Nixon v. Warner Comm., Inc.*, 435 U.S. 589, 597 & n. 7 (1978). A narrow range of documents is not subject to the right of public access because the records have "traditionally been kept secret for important policy reasons." *Times Mirror Co. v. United States*, 873 F.2d 1210, 1219 (9th Cir. 1989). Unless a particular court record

1 is one “traditionally kept secret,” a “strong presumption in favor of access” is the starting point.
2 *Foltz v. State Farm Mutual Auto. Insurance Company*, 331 F.3d 1122, 1135 (9th Cir. 2003) (citing
3 *Hagestad v. Tragesser*, 49 F.3d 1430, 1434 (9th Cir. 1995)). The moving party must articulate
4 compelling reasons supported by specific factual findings that “outweigh the general history of
5 access and the public policies favoring disclosure.” *Kamakana v. City of Honolulu*, 447 F.3d 1172,
6 1178 (9th Cir. 2006) (internal citations omitted).

7 Here, Defendant articulates compelling reasons to seal Exhibit 3 to Plaintiffs’ Opposition
8 (#104). Defendant represents that Exhibit 3 includes confidential information related to the
9 development and implementation of its unique industrial engineering standards as well as its
10 performance management program. Defendant further represents that Exhibit 3 contains
11 confidential information concerning the discipline and leave of employees who are not parties to
12 this litigation. The Court finds Defendant makes a showing sufficient to outweigh the policy
13 favoring public access to the subject Exhibit. Accordingly,

14 **IT IS HEREBY ORDERED** that Defendant’s Motion to Seal (#108) Exhibit 3 to the
15 Affidavit of Larson A. Welsh in Support of Plaintiffs’ Opposition is **granted**.

16 **IT IS FURTHER ORDERED** that Plaintiffs shall file an unsealed copy of their
17 Opposition (#104) within 7 days of the date of this Order, excluding Exhibit 3, which will remain
18 under seal.

19 DATED this 17th day of June, 2013.

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22 GEORGE FOLEY, JR.
23 United States Magistrate Judge
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